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REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN CONCERNED

Written statement submitted by Human Rights Advocates, a non-governmental organization in consultative status (category II), in conjunction with the Natural Heritage Institute

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[16 July 1992]

RELATIONSHIP BETWEEN HUMAN RIGHTS AND THE ENVIRONMENT

1. Human Rights Advocates (HRA), 1/ in conjunction with the Natural Heritage Institute (NHI), 2/ submits the following intervention to the Sub-Commission on Prevention of Discrimination and Protection of Minorities. Since 1989, HRA and NHI have documented human rights abuses associated with environmental degradation and have brought together environmental, indigenous and human rights organizations to find solutions to these problems. 3/

2. The Commission on Human Rights, in its resolution 1990/41 of 6 March 1990, encouraged the Sub-Commission to investigate the link between human rights and the environment. The Sub-Commission appointed Mrs. Fatma Zohra Ksentini to undertake the investigation. This intervention urges the Sub-Commission to continue its support for Mrs. Ksentini's investigation.

3. In many regions of the world, human rights are violated regularly by developers, often with the tacit approval of the Government: ancient forests of nomadic peoples are cleared; lands of rural villagers taken; hazardous waste is dumped onto native lands and into waters, spreading diseases among the people; reservoir and irrigation developments displace communities, creating "environmental refugee" problems. Too often, those who attempt to stop this destruction are threatened or jailed. These actions violate established human rights, though many victims have no recourse against the violator to prevent the environmental abuses that threaten their lives, health, livelihood and cultural heritage.

4. The question of how to remedy the suffering of the many whose lives are destroyed as part-and-parcel of natural resource destruction has yet to be addressed by the international community. While we and other groups raised the issue before the United Nations Conference on Environment and Development (UNCED), and while many Governments agreed with the need to protect victims of human rights violations associated with environmental destruction, UNCED did not address human rights and environment concerns in any meaningful way. No programmes were developed for United Nations or regional bodies to pursue and no future agenda was developed on this issue by UNCED. Thus, the Sub-Commission and the Commission on Human Rights remain the most appropriate bodies to address this growing problem.

5. Accordingly, we encourage Mrs. Ksentini to continue her valuable work and recommend that following her investigation, this body identify the means to strengthen both the substantive and procedural aspects of international, regional and local laws and institutions to protect the human rights of environmental victims, including providing victims with remedies against offending parties.

6. To assist the Sub-Commission and particularly Mrs. Ksentini's efforts, the Natural Heritage Institute has prepared a report on this subject which documents human abuses associated with environmental degradation and natural resource exploitation in many areas of the world, and which also analyses the international human and environmental rights of individuals and obligations of States, including the right to participate in government decisions which could threaten the environment or public health. Furthermore, the report suggests potential methods and institutions through which such rights and obligations can be enforced.

Human rights violations resulting from environmental degradation

7. The development of large hydropower and irrigation projects can lead to violations of human rights because these projects can cause displacement, disruptions in the food producing environment, and increased spread of disease. Local communities are often excluded, and their concerns ignored, in the governmental planning processes for these projects. For example, the land submerged by the James Bay hydroelectric project in Quebec has released mercury into the water, rendering fish unsafe to eat and threatening the lives of those in the surrounding communities. Nearly half of the tens of thousands of native Cree and Inuit have suffered from the contamination. Hydropower development in Ghana's Volta River basin has caused 70,000 cases of river blindness and forced 80,000 people to relocate. 4/

8. The Aral Sea in Uzbekistan in central Asia, has been drained to approximately 60 per cent of its natural size by diversions of its tributary rivers over the past 30 years under policies initiated by the Government. Winds whip up salts and toxic metals from the 11,000 square miles of newly-exposed lakebed, resulting in sharp increases in throat cancer, respiratory and eye diseases, and pesticide contamination which has been found in nursing mothers' milk. The health of these residents continues to deteriorate. Further, the once productive Aral Sea fishery has been totally destroyed, along with the livelihood of 10,000 fishermen.

9. Involuntary resettlement from development raises serious human rights concerns as many of the displaced have been forced to leave behind their cultural heritage and livelihood, only to become migrant workers. For example, according to an investigation by K.V. Raju and C. Maloney (January 1992), the Narmada River Valley project of the Indian Government, supported by the World Bank, is likely to displace over 1 million people, most of whom will not be adequately compensated, resettled, or provided with a sustainable livelihood. In fact, it is predicted that most will become migrant labourers. In Bangladesh, the World Bank has implemented a Flood Action Plan (FAP) in an attempt to address the serious annual coastal flooding which has killed over a million people in the past three decades. Although designed to alleviate flooding, the plan will actually increase flooding severity and frequency for a large portion of the country, and could affect between 5 and 8 million people currently living on islands and riverbanks in the area. 5/

10. Mining, timber harvesting and other resource extraction activities affect local communities, who are often left disempowered in the environmental decision-making processes. For example, the natural resources of the Tibetans are being wholly exploited by the Chinese: the Chinese have cut and exported much of Tibet's pristine forests, leaving the Tibetans with little of their historic resource. 6/ Equally tragic is the plight of the Penan people in Sarawak, Malaysia. Their hereditary forests are being felled at an extraordinary rate with the assistance of the Malaysian Government. Destruction of the forest and the attendant degradation of rivers have forced the Penan to abandon their traditional way of life, relocating to roadside shantytowns and adopting non-traditional agriculture. The results have been dramatic increases in malnutrition, disease and birth defects. (E/CN.4/Sub.2/1990/NGO/22).

11. Oil production in Ecuador has resulted in the clearing of vast areas of forest for roads and well facilities. The poor disposal of toxic mud and brine, the large number of spills from waste pits and poorly-maintained pipelines (over 17 million gallons of crude oil have spilled from these pipelines), and the burning of waste oil have resulted in destruction of wildlife and fisheries, and the deterioration of the food supplies and health of the indigenous people. 7/

Environmental disasters

12. Environmental disasters can lead to death and destruction of whole communities as well as natural resources. Many chemical and nuclear power plants are life-threatening because they are not operated with adequate

environmental protections. Governments often contribute to the harm by withholding information from the public. The number of deaths and suffering that resulted from the Chernobyl disaster on 26 April 1986 was significantly increased because the Soviet Government withheld information from the public. It is now understood that 150,000 people were seriously injured by radioactive iodine which affects the thyroid, and more than 4 million people near Chernobyl are still exposed to contaminated soil and food. In another example from 1944 to 1947, the Hanford nuclear weapons plant in the State of Washington, in the United States of America, deliberately released large amounts of radiation into the atmosphere, contaminating the surrounding countryside and exposing the population for decades. It was not until 1990 that the Department of Energy of the United States released a report admitting Hanford's radiation releases and documenting the likely health effects.

13. Many of the affected people are helpless to fight these abuses because they are unaware of their human rights or of the tribunals which might offer protection. Further, international and regional bodies, including human rights tribunals, have yet to clarify the responsibility of Governments to protect and provide remedies for these victims.

The plight of environmental refugees, displaced persons and migrants

14. Over 100 million people worldwide are homeless because of development activities and environmental disasters, such as severe desertification, flooding and pollution. The migration of large numbers of people will continue to increase due to environmental disruptions, population growth, poverty and economic polarization. These mass movements are in turn likely to contribute to environmental degradation in the host countries. The largest populations of these homeless migrants are in Africa and Asia. While the environmentally dispossessed are the fastest growing category of displaced persons in the world, international organizations have yet to address this problem effectively. Further, the World Bank's guidelines on involuntary resettlement of these people are often not met by Governments receiving loans from the World Bank, exacerbating the suffering of environmental victims. We are documenting this phenomenon and have co-published and disseminated six reports on the situation in regions of sub-Saharan Africa, South Asia, the Caribbean and South America. Recently, we provided our case studies and expertise as part of an informal group of experts organized by the Swiss Government, the Refugee Policy Group and others to assist the United Nations High Commissioner for Refugees, the International Organization for Migration and Governments in understanding the problems and developing solutions. Much still needs to be done, as our recent findings discussed below illustrate.

Causes of migration: land degradation and soil erosion

15. There are many areas in the world where long periods of political and social instability have been accompanied by unsustainable land use practices. 8/ Long periods of over-exploitation inevitably result in land degradation - sometimes irreversibly altering regional ecosystems - which in turn decreases the number of people that the land can support, in areas that are often densely populated. The social impact of land degradation is profound and tends to escalate synergistically. In many instances there has

been a pattern of disempowerment of local people by ill-planned, or even corrupt decision-making in places far removed from the affected lands and people.

16. In addition to the much publicized situations where commercial timber harvesting is rapidly depleting the world's forests, much of the deforestation occurring around the world is the result of more complex, multifaceted pressures on these resources. The instruments of forest destruction are often the very victims of their loss - the local people who are driven to cut trees in order to clear land for subsistence farming or grazing, or simply for wood to cook food for their families. The impact tends to be most severe in places where people are cut off from centres of decision-making and power, and ultimately leads to even greater disempowerment as local communities are both blamed for the destruction and forced to leave the area in search of a means of subsistence. Soil erosion is also a serious problem, especially in the tropics. Erosion due to human activity tends to be most severe when the natural vegetative cover is removed in places with high intensity rainfall, sun and wind. In many areas, particularly where tropical forests are cut, soil erosion leads to desertification, with disastrous implications for the local people.

17. Deforestation in the Horn of Africa (the Sahel region, comprised of Sudan, Ethiopia, Eritrea and Somalia) has been a problem throughout recorded history. Today the destruction is driven by the needs of local people for fuel and building supplies. Further, this area has experienced severe soil erosion that is due to generations of intensive farming combined with related deforestation and over-grazing. Many of these communities historically migrated on a seasonal basis, allowing for natural processes to rejuvenate the lands they worked in other seasons. Despite this, government policies to encourage development of frontier lands for agriculture have prevented this cultural migration, and poor farming practices of settlers have caused serious land erosion. Many of the affected people have been disempowered from participating in the environmental decision-making process. The Highland Reclamation Report of the Food and Agriculture Organization of the United Nations estimates that, in Ethiopia, if the present pace of soil erosion continues, by the year 2010 some 38,000 square kilometres - an area slightly smaller than Switzerland - of the Ethiopian highlands will simply be bare rock while another 60,000 square kilometres of land - twice the size of Belgium - will contain less than 10 centimetres of soil.

18. Deforestation in Haiti has reached crisis proportions. Today, only 2 per cent of Haiti's total land area is still classified as dense forest. In addition, Haiti is experiencing tremendous soil erosion problems that have resulted from political instability and mismanagement of the country's resources. One researcher has concluded that the Haitian Government has not attempted erosion control because it does not yield any direct benefit to the group of politicians who are currently in power, stating that as early as 1979, "as much as a third of the original endowment of agriculture land has been removed." This severe land degradation has led to increasing migration from rural Haiti. 9/

19. The right to information about the environment: In many regions of the world, people are incapable of preventing the environmental destruction associated with heedless economic development in part because their Governments withhold information on the environmental consequences of official development policies. Moreover, Governments often fail to develop the necessary information to identify and mitigate the deleterious effects on human life. Yet, significant damage could be avoided by including the public within the environmental decision-making process. For example, as highlighted by the tragedy of the Chernobyl and Bhopal accidents, the development of a community emergency response plan for a hazardous facility can decrease the incidence of toxic exposure.

20. International financial institutions that support development projects have not ensured that the groups affected by these projects receive vital information about the threats of proposed development schemes or are allowed to participate in the decision-making process. For example, the World Bank's policies fail to guarantee public participation in the environmental assessment process. 10/ Recipients of World Bank funds need not disclose the environmental threats associated with funded projects. The policies of international lending institutions need to be improved so that environmental documents are made available to the public and incorporate public comment on proposed projects. Involving the affected community on environmental decisions could reduce the likelihood that these projects will lead to human rights violations.

Recommendations to the Sub-Commission

21. Resolve that the Special Rapporteur continue her investigation of this subject, especially to identify the means to strengthen both the substantive and procedural aspects of international, regional and local laws and institutions to protect victims of environmental harm. An important focus of this should be to develop international standards on environmental impact assessment and on the participation of potentially affected individuals and communities regardless of citizenship.

22. Call upon Governments to develop mechanisms that will guarantee respect for human rights in developing and implementing national environmental policies.

23. Call upon international financial institutions to ensure, through binding requirements, that the recipients of development project funds, will guarantee respect for human rights in developing and implementing environmental policies.

24. Coordinate efforts with intergovernmental agencies and other bodies expert in these issues, including the United Nations Environment Programme, the United Nations Development Programme, the United Nations Centre on Transnational Corporations, the United Nations Educational, Scientific and Cultural Organization, the International Labour Organisation and the Committee on Economic, Social and Cultural Rights.

Notes

1/ Human Rights Advocates is a non-governmental organization which provides education to the public on their human rights and advocates protection of those rights in international and other forums.

2/ The Natural Heritage Institute provides counselling and legal representation to conservation organizations and public institutions on a non-profit basis in the natural resources field, with special expertise in international conservation. Many of its projects focus on the protection of communities affected by development and environmental phenomena. For more information, contact the Natural Heritage Institute, Cronkhite Beach, Building 1055, Sausalito, CA, 94965, United States of America.

3/ NHI convened a meeting of international human rights and environmental experts in April 1991 at United Nations Headquarters to discuss the interrelationship of environmental problems and human rights. The conclusions drawn from that meeting were developed into a preliminary report and presented to delegates of the Preparatory Committee for UNCED. See also the intervention of NHI and HRA before the Sub-Commission's forty-third session (E/CN.4/Sub.2/1991/NGO/11).

4/ The river blindness occurring in this region, caused by a parasitic worm that thrives in fast-flowing water, such as the spillways of large dams, could have been avoided by an adequate environmental impact assessment. See Cummings, Dam the Rivers, Damn the People, World Wildlife Fund, 1990.

5/ Leonard Sklar, "Draft Technical Review of the Bangladesh Flood Action Plan", International Rivers Network, January 1992.

6/ Margit Roos-Collins, International Committee of Lawyers for Tibet, "The Relationship Between Environmental Management and Human Rights in Tibet", 14 July 1992.

7/ See J. Kimerling, Amazon Crude, NRDC, 1991.

8/ See Robert A. Hutchenson, Fighting for Survival: Insecurity, People and the Environment in the Horn of Africa, International Union for the Conservation of Nature and Natural Resource, November 1991. "The growing dimension of human suffering in the Horn cannot be overlooked. A political stalemate in the search for reconciliation is made more intolerable by recurrent droughts and ongoing mismanagement of the resource base."

9/ Anthony V. Catanese, "Haiti's Refugees: Political, Economic, Environmental," Published cooperatively by the Natural Heritage Institute and Universities Field Staff International, Latin America 1990/91/No. 17.

10/ Letter to the United States Secretary of the Treasury, dated 25 June 1991, from Robert Kasten and Patrick Leahy, members of the United States Senate Committee on Appropriations.